



Docket No.: FA0881 US NA
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Daniel E. Benton et al.

Application No.: 09/536,137

Confirmation No.: 5926

Filed: March 28, 2000

Art Unit: 2161

For: COLOR MATCHING METHOD FOR
AUTOMOTIVE REFINISHING

Examiner: Cam Linh T. Nguyen

DECLARATION OF DANIEL A. BENTON UNDER 37 CFR 1.131

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Daniel A. Benton, declare and state as follows:

1. I, Daniel A. Benton, reside at 315 Spalding Road, Wilmington, Delaware
19711.

2. I am one of the joint inventors of the above-identified U.S. patent application
("the '137 application"), filed on March 28, 2000, as evidenced by the attached executed
Declaration (Exhibit A) filed with the United States Patent and Trademark Office.

3. I have reviewed and understand the '137 application, including the currently
pending claims and amendments (the "Claimed Invention").

4. I, together with Joseph F. Campbell, jointly conceived the Claimed Invention prior to December 17, 1999, as evidenced by Exhibit B, which are notes and flowcharts illustrating the Claimed Invention. The notes and flowcharts were prepared during meetings between a DuPont attorney and DuPont employees in DuPont's Performance Coating Group, Refinish Division, in preparation for drafting the patent application for the claimed invention. The actual dates on these documents have been blanked out, as has any description not relevant to the conception of the Claimed Invention; however, the dates are prior to December 17, 1999.

5. E.I. DuPont de Nemours and Company ("DuPont"), is the assignee of the subject application. (See Assignment and Agreement attached as Exhibit C).

6. A DuPont attorney was assigned to write this application, as evidenced by attached Exhibit D, which is a copy of an email to the DuPont attorney from a DuPont employee in DuPont's Performance Coating Group, Refinish Division, forwarding a marked-up copy of the patent application that the attorney had prepared. The actual date on this submission has been blanked out; however, the date is prior to December 17, 1999. From prior to December 17, 1999, until the March 28, 2000 filing date of the '137 application, the DuPont attorney, my co-inventor and I, and DuPont employees working in the Performance Coating Group, Refinish Division worked diligently in completing the draft application and filing it in the U.S. Patent and Trademark Office as evidenced by Exhibits E-K, attached hereto and explained below.

7. Exhibit E demonstrates that an employee of DuPont's Performance Coating Group, Refinish Division corresponded with the DuPont attorney to identify the inventors (and others working with them) on December 20, 1999. Exhibit E also provides the DuPont attorney with further information for the flowchart drawings for the application for the Claimed Invention.

8. Shortly after the intervening Holidays and New Year, an employee of DuPont's Performance Coating Group, Refinish Division inquired to the DuPont attorney as to the status of the patent application on January 19, 2000, as evidenced by Exhibit F.

9. Exhibit G demonstrates that the DuPont attorney responded two days later on January 21, 2000, as to the status, and indicated that the attorney had been out with the flu, but that a further draft of the patent application should be expected "next week."

10. Exhibit G also demonstrates that, on January 21, 2000, the employee in DuPont's Performance Coating Group, Refinish Division indicated to the DuPont attorney that he had accepted a new assignment within DuPont, and will be in training until after January 31, 2000.

11. On February 1, 2000, the DuPont attorney forwarded to employees in DuPont's Performance Coating Group, Refinish Division a copy of the second draft of the patent application, as evidenced by Exhibit H, and requested "comments at your

earliest convenience.” The attorney further remarked that DuPont could likely “finalize and file this case rather quickly now.” Id.

12. DuPont employees in the Performance Coating Group, Refinish Division responded to the attorney on February 4, 2000, with additional corrections and revisions for the second draft application, as evidenced by Exhibit I. On information and belief, the DuPont attorney then worked diligently to make corrections and incorporate the further revisions to finalize the patent application.

13. An employee in DuPont’s Performance Coating Group, Refinish Division, on March 3, 2000, collected names, addresses, and citizenship information from the inventors (and others working with them) for the formal documents to accompany the patent application upon filing, as evidenced by Exhibit J.

14. On March 6, 2000, the DuPont attorney forwarded the final draft of the patent application along with the Declaration and Power of Attorney and Assignment to my co-inventor and I, as evidenced by Exhibit K.

15. I received a copy of the final patent application covering the Claimed Invention, reviewed it, and then signed the formal documents on March 10, 2000, as evidenced by the Declaration and Power of Attorney (Exhibit A) and Assignment (Exhibit C) documents.

16. The application was filed in the United States Patent and Trademark Office on March 28, 2000. The preparation of the present application covering the Claimed Invention was diligently pursued from prior to the reference date of December 17, 1999 to the actual filing date (March 28, 2000) of the present application.

All statements made herein of my own knowledge are true, and all statements made on information and belief are believed to be true. All statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the above-identified patent.

Date: 9/13/05

By: 
Daniel A. Benton

EXHIBIT A

DECLARATION and POWER OF ATTORNEY

As a below-named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

COLOR MATCHING METHOD FOR AUTOMOTIVE REFINISHING

the specification of which is attached hereto unless the following box is checked:

☐ was filed on _____ as U.S. Application No. _____ or PCT International Application No. _____ and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is known to me to be material to patentability as defined in 37 CFR § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed.

Application No.	Country	Filing Date	Priority Claimed (Yes/No)
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I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States Provisional Application(s) listed below.

U.S. Provisional Application No.	U.S. Filing Date
----------------------------------	------------------

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT International Application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application or PCT International Application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is known to me to be material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

Application No.	Filing Date	Status (patented, pending or abandoned)
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POWER OF ATTORNEY: I hereby appoint the following attorney(s) and/or agent(s) the power to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:Name: **STEVEN C. BENJAMIN**
JOSEPH A. TESSARIRegistration No.: **36,087**
32,177

Send correspondence and direct telephone calls to:

STEVEN C. BENJAMIN**E. I. du Pont de Nemours and Company**
Legal - Patents
Wilmington, DE 19898, U.S.A.Tel. No.
(302) 892-7916
Fax No.
(302) 992-2533

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

INVENTOR(S)

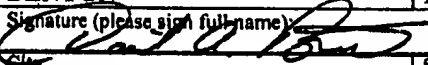
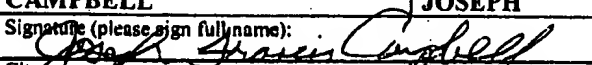
Full Name of Inventor	Last Name	First Name	Middle Name
BENTON	DANIEL	A.	
Signature (please sign full name): 			Date: 03/10/00
Residence & Citizenship	City	State or Foreign Country	Country of Citizenship
NEWARK	DELAWARE	U.S.A.	
Post Office Address	Post Office Address	City	State or Country
432 HAYSTACK DRIVE	NEWARK	DELAWARE	Zip Code
19711			
CAMPBELL	JOSEPH	FRANCIS	
Signature (please sign full name): 			Date: 03/23/00
Residence & Citizenship	City	State or Foreign Country	Country of Citizenship
SHELBY TOWNSHIP	MICHIGAN	U.S.A.	
Post Office Address	Post Office Address	City	State or Country
47660 HOMESTEAD COURT	SHELBY TOWNSHIP	MICHIGAN	Zip Code
48315			

EXHIBIT B

Cathy Harwood
Jim Fawcett

Retinish Color Matching Software

② • Intellectual Property Standpoint

Need new Trademark (will work with Trademark Counsel)

Patent Law Standpoint

• Selecting correct color
to paint a car

• Need right tools to
give body shop
painter correct
direction

• Knowledge unique
to DuPont

• Formulations
matched up
with DuPont stock
codes

• Input VIN -
Paint Code
give point of origin -
↓ Decode
Paint Match

Color retrieval
Processing Steps

Massive Data Collection
Need to Camp out at every plant
to match color

Input VIN number & Paint Code
(Each digit has sep. meaning)

Decode indicators of VIN
to match paint to plant

Different logics for
Different Types of Automobiles

ADA database, all of our paint formulas
by stock code no.
DuPont

Published VIN Decoders

DuPont stock code no.

DuPont research - compares indicators w. VIN
and stock co.

Refinish
Formula

Also tells if need a new formula

Color Retrieval Process

VIN Decoder

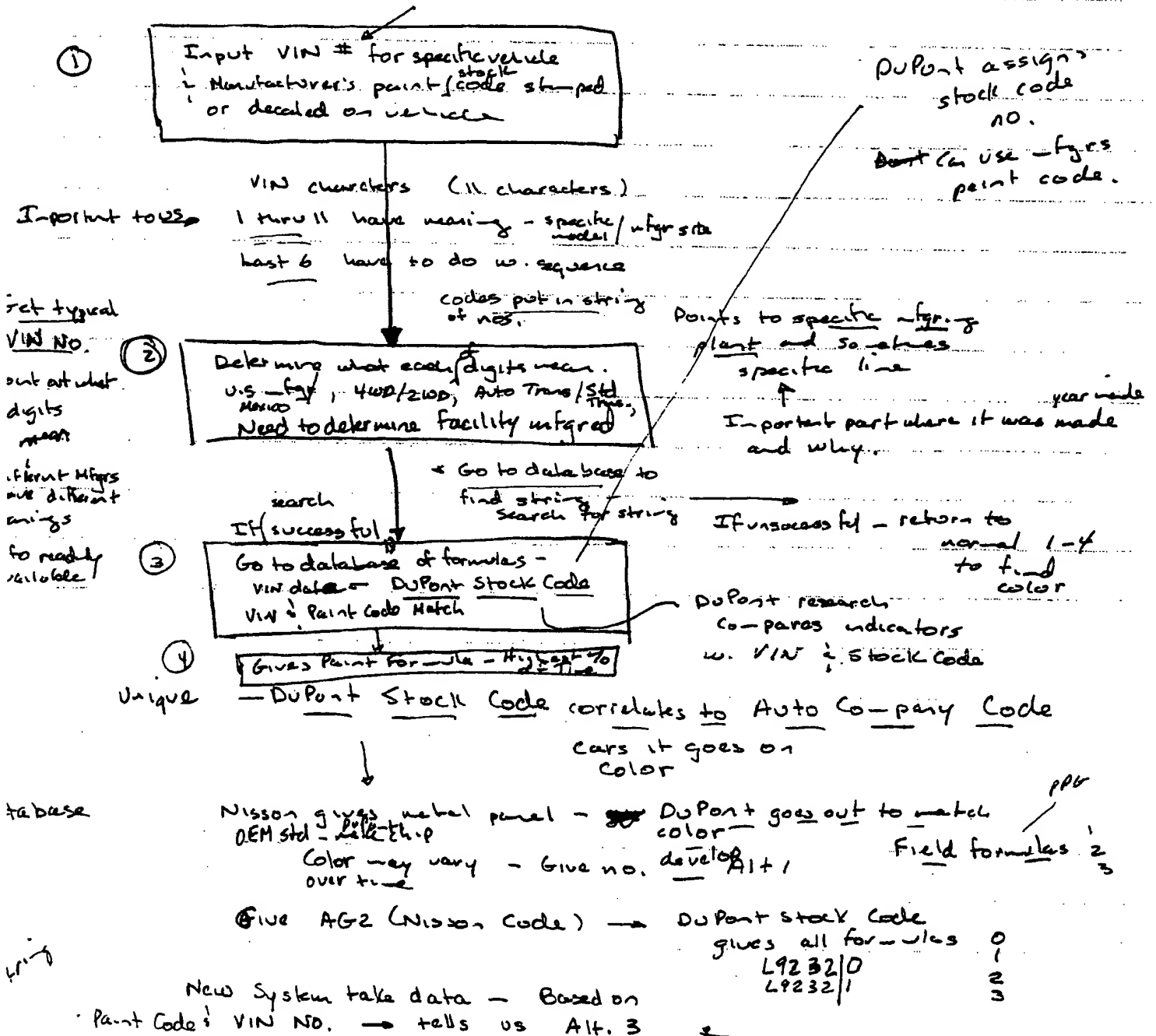
Select correct color to repaint a car

Tired of mixing
4 pints of paint
to get
color

Different Color Needs for Different Vehicle Types

Passenger Vehicle Collision

VIN Program 1-17



Popular Color Position - With Plant Information

100% sold in U.S.

GM
Ford
Chrysler
Nissan

2

VIN - - - - - / 6

Location string
mfg
year
model

Vin Code Database

Paint Code Database

mfg.
Paint
Code

A G Z

xxx

1
d paint
code for
years

[Take color readings as
come off line]

don't have to track down
cars at ports of entry.

Now, only use paint code.

Red but 5 diff. kinds
of red.

Which one ??

In the past, painful to find
which one.

a little redder than chip in
book

hit or miss

Compare to chip in book

Popular color position

Now only correct

50% of time

DuPont Code

L9232

Red

Alts.

0

Y X Y

1

2

3

X X X

4

5

5 different
shades

Location By Facility

By Plant for complete model year

Highest % of Time
Get Match

90% of time

Color Quality Coordinator

takes spectral readings
from particular plant -

determine if alternates are
needed. Is an acceptable
match for color mfg said
it was originally?

If wrong,
body shop goes
to chips.

Visual Tools Used
in Past
Chips
Use 100% vision

Select Best Color / Best Match on DuPont System

Historical data to find it. not correct color

one alt
short
with
it. 10% (some)

1st of
paint

Actual Data Collection - By Color Position in Space

| Chroma vision - Color Machine

But costs Dupont \$6000/shop

hand held spectrophotometer w. light source & battery

LAB color read

3 readings per car / stores LAB

~~color~~

Closest blonde catch

Visual

EXHIBIT C

ASSIGNMENT

We, the undersigned

DANIEL A. BENTON and JOSEPH FRANCIS CAMPBELL

Hereby declare that

We are the true and first inventors of an invention entitled

COLOR MATCHING METHOD FOR AUTOMOTIVE REFINISHING

(which is identified as Case Number **FA0881 US NA**) and which is disclosed in an application for Letters Patent in the United States of America., executed the 10th & 23rd day of March 2000

For valuable consideration, the receipt and adequacy of which is hereby acknowledged and in fulfillment of our pre-existing obligation of assignment, we hereby:

I. Sell, assign, and transfer unto **E. I. du Pont de Nemours and Company**, a corporation organized and existing under the laws of the State of Delaware in the United States of America and having its principal place of business at Wilmington, Delaware, hereinafter referred to as the assignee, (A) the sole and entire right, title, and interest in and to: (1) the aforesaid application for Letters Patent, (2) any priority rights derived from the aforesaid application for Letters Patent by virtue of the International Convention for the Protection of Industrial Property and any other treaty or understanding for intellectual property for any and all member countries of the aforesaid International Convention or other treaty or understanding, (3) any and all our inventions, whether joint or sole, disclosed in the aforesaid application for Letters Patent, (4) any and all applications for Letters Patent for any such inventions in any country whatsoever, (5) any and all patents for any such inventions in any country whatsoever; and (B) the sole right to (1) file such applications in its name or ours, (2) file such applications under the aforesaid International Convention or other treaty or understanding, (3) have said patents granted in its name or ours, and (4) enforce said patents and to sue for and recover profits and damages for any and all infringements thereof whether past or future; and

II. Agree, whenever requested, to communicate to said assignee, its successors, assigns, and legal representatives, any facts known to us respecting said rights, to testify in any legal proceeding respecting said rights, to execute all applications, papers or instruments necessary or required by said assignee, its successors, assigns and legal representatives, to carry into effect any of the provisions of this instrument, and generally to do everything possible to aid said assignee, its successors, assigns, and legal representatives to obtain and enforce proper patent protection for said inventions in any and all countries.

We further authorize our attorney/patent agent to insert below* the application number and filing date of the aforesaid United States application now identified as Case Number **FA0881 US NA** after the same shall have been made known to him/her by the United States Patent Office.

 (L.S.)
DANIEL A. BENTON

DATE: 03/10/00

 (L.S.)
JOSEPH FRANCIS CAMPBELL

DATE: 03/23/00

*The application referred to above as Case Number **FA0881 US NA** was filed in the United States Patent Office on

March 28, 2000, and was given Application No. 09/536,137

This insertion made by me this 1st day of June, 2000


STEVEN C. BENJAMIN

ATTORNEY/PATENT AGENT FOR APPLICANTS

Registration No.: 36,087

Telephone: 302-992-2236

Facsimile: 302-992-2533

EXHIBIT D



James E Fawcett

09:50 AM

To: Steven C. Benjamin/DPL/DUP@DUP
cc: Catherine A Marchand/AE/DuPont@DuPont
Subject: Color Retrieval Patent Draft Update

Steve

Attached is the updates made by Cathy Marchand and myself.

Please review and let us know what the next step in the process are. We look forward to our next visit.

Jim



0881 US NA SPEC jef121599.

EXHIBIT E



James E Fawcett

12/20/99 12:50 PM

To: Steven C. Benjamin/DPL/DUP@DUP
cc: James E Fawcett/AE/DuPont@DuPont, Catherine A Marchand/AE/DuPont@DuPont
Subject: Color Retrieval Method

Here is a list of the members of the core Color Positioning Team from the timeframe of when this new method was born. There we other people that are associated to this team as resources, but they are not listed as they were acting upon direction given to them.

Dan Benton
Joe Campbell
Tom Tarrant
Dave Griffus
Tom Phelan
Michelle Jensen

Also, here is the flow chart for the new method of color retrieval. Let me know if there are further needs.



New Process Flow Chart 991220.:

Have a great holiday season.

Jim

EXHIBIT F



James E Fawcett

01/19/2000 03:17 PM

To: Steven C. Benjamin/DPL/DUP@DUP

cc:

Subject: Patent Status

Steve,

Just a quick note, how are things with the Color retrieval method patent application? How's that for short and sweet?

Jim

EXHIBIT G



James E Fawcett

01/21/2000 02:48 PM

To: Steven C Benjamin/AE/DuPont@DuPont
cc: Gregg L White/DuPont@DuPont, Thomas N Tarrant/AE/DuPont@DuPont, Catherine A Marchand/AE/DuPont@DuPont
Subject: Re: Vin Retrieval Patent Status

Steve

Sorry to hear you had the flu. . . I hope it can't travel over the the e-mails.

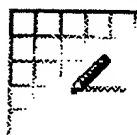
Thanks for the update and we appreciate all you are doing.

Also, I should let you know that I have accepted a new assignment within refinish to be involved with Six Sigma. The training is starting next week and will finish on Friday. After that I will be in the office after Jan. 31st.


I will definately be involved to assist in any way needed and will be connected until the business assigns a person to work with you on this.

Jim

----- Forwarded by James E Fawcett/AE/DuPont on 01/21/2000 02:43 PM -----



Steven C Benjamin
01/21/2000 01:51 PM

To: James E Fawcett/AE/DuPont@DuPont
cc:
Subject: Re: Patent Status 

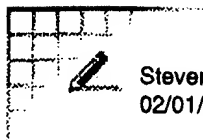
Jim:

The Y2K flu bug set me back. I should have a revised draft to you sometime next week. Still looking forward to having the case finished by month end.

Regards,

Steve

EXHIBIT H



Steven C Benjamin
02/01/2000 12:45 PM

To: James E Fawcett/AE/DuPont@DuPont
cc: Catherine A Marchand/AE/DuPont@DuPont
Subject: FA-0881 - Vin Color Retrieval Method

Jim,

Attached is the second draft of your patent application, which has been revised in accordance with your suggestions.

Please review this application and provide your comments at your earliest chance.

I suspect that we will be able to finalize and file this case rather quickly now, as it is in pretty good shape.

Regards,

Steve



0881 US NA SPEC.doc

EXHIBIT I



James E Fawcett

02/04/2000 01:01 PM

To: Steven C Benjamin/AE/DuPont@DuPont
cc: Catherine A Marchand/AE/DuPont@DuPont, Thomas N Tarrant/AE/DuPont@DuPont, James E Fawcett/AE/DuPont@DuPont
Subject: Revised Draft of Patent Application

Steve

Attached you will find two files. The first is the flow chart with the corrections you requested, and the second is a revision of the latest draft you sent earlier this week.

In the application draft, there are very few changes made to the wording. I believe it is getting fairly close to what we believe we want. There is a question though, in the DETAILED DESCRIPTION OF THE INVENTION section, there is the statement of a non-computer option for this retrieval method. Should this statement also appear in some form in the CLAIMS and ABSTRACT sections for consistency. These two sections appear to be a restatement of the DETAILED DESCRIPTION OF THE INVENTION section and if so, consistency may ask to include this mention of alternative methods other than computerized.

Thank you for your help and support, please let me know our next step. Cathy and I did visit briefly on the application as a Provisional, we'd be interested in hearing the pros and cons before filing. It does appear to have our interest to some degree.

Best Regards,
Jim Fawcett



New Process Flow Chart 000204.:



0881 US NA SPEC jef 020400.:



James E Fawcett

03/03/2000 07:37 AM

To: Catherine A Marchand/AE/DuPont@DuPont, Daniel A Benton/AE/DuPont@DuPont, Joseph F Campbell/AE/DuPont@DuPont, Thomas N Tarrant/AE/DuPont@DuPont, Thomas C Phelan/AE/DuPont@DuPont, Michele K Jensen/AE/DuPont@DuPont, David L Griffus/AE/DuPont@DuPont
cc:
Subject: FA0881 United States - Color Matching Method for Automotive Refinishing

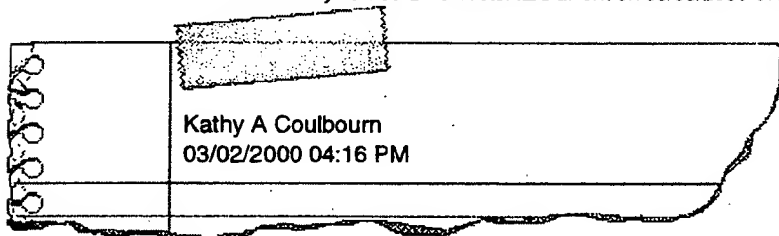
As you may summarize from the below request, DuPont is applying for a patent for the unique method of retrieving a color formula based off of the use of the Vehicle Identification Number.

Your names were given as members of the Color Positioning Team that this idea grew from. It has not been determined as to who the key inventor is that will be listed on the patent application, but please supply the requested information to Kathy Coulbourn in preparation for the patent paperwork.

Feel free to contact myself with any questions or comments that you may have.

Best Regards,
Jim Fawcett

----- Forwarded by James E Fawcett/AE/DuPont on 03/03/2000 07:30 AM -----



To: James E Fawcett/AE/DuPont@DuPont, Catherine A Marchand/AE/DuPont@DuPont, Daniel A Benton/AE/DuPont@DuPont, Joseph F Campbell/AE/DuPont@DuPont, Thomas N Tarrant/AE/DuPont@DuPont, Thomas C Phelan/AE/DuPont@DuPont, Michele K Jensen/AE/DuPont@DuPont, David L Griffus/AE/DuPont@DuPont
cc: Steven C Benjamin/AE/DuPont@DuPont
Subject: FA0881 United States - Color Matching Method for Automotive Refinishing

We are preparing the above-identified application for filing in the U.S. Patent and Trademark Office. Please supply your entire name, home address and citizenship. This is needed before we file in the PTO.

Kathy

EXHIBIT K

• • •



DuPont Legal

Reply to: Steven C. Benjamin
DuPont Legal
Mail: BMP 17/1208
Routes 141 & 48
Wilmington, DE 19805
Telephone: (302) 992-2236
Fax: (302) 992-2533

March 6, 2000

IN TURN

D. A. BENTON
PERFORMANCE COATINGS
P21/2161

J. F. CAMPBELL
PERFORMANCE COATINGS
TROY

**FA0818 US NA
COLOR MATCHING METHOD
FOR AUTOMOTIVE REFINISHING**

Attached is a copy of the above-identified application which is to be filed in the Patent and Trademark Office. Also attached are the Declaration and Power of Attorney and Assignment for your signature. Please execute your name and date in blue ink exactly as it is written on both documents, then forward the entire package to Joseph Campbell at Troy who will, in turn, execute both documents and then return the entire package to Kathy Coulbourn, Legal, P 17/1207.

If you have any questions, please feel free to contact me at 992-2236.

A handwritten signature in blue ink, appearing to read "S. C. Benjamin", with a long horizontal line extending to the right.
S. C. BENJAMIN

kac

Attachments

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